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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

RENARD POLK,

Case No. 3:08-cv-00134-LRH-VPC

Plaintiff,

ORDER

v.

SCOTT KAVCOS, *et al.*,

Defendant.

Before the Court is a Referral Notice (ECF No. 51) from the Ninth Circuit referring this matter to the district court for the limited purpose of determining whether *in forma pauperis* status should continue for plaintiff's appeal or whether the appeal is frivolous or taken in bad faith. The district court finds plaintiff's appeal to be frivolous.

When the Court screened plaintiff Renard T. Polk's complaint, it allowed Polk to proceed on a single count brought against defendant Scott Kavcos. ECF No. 12. The U.S. Marshal attempted to serve Kavcos but was unsuccessful. ECF No. 23. The count was dismissed without prejudice for lack of service. ECF No. 24. Accordingly, all of Polk's claims had been dismissed. Polk then appealed to the Ninth Circuit Court of Appeals, which affirmed the Court's decisions and concluded the action in its entirety. ECF No. 35.

But despite the Ninth Circuit's decision, Polk continued to file motions in the case. See ECF Nos. 39 - 42. The motions were denied based on the dismissal of all counts. ECF No. 44. Polk was instructed that no further papers should be filed in this closed

1 matter. *Id.* But against the Court's order, Polk filed an objection to the denial of his post-
2 appeal motions. ECF No. 45. The Court again instructed Polk that no further papers
3 should be filed in this closed matter. ECF No. 48. He appeals the court's decision to
4 deny his post-appeal motions. ECF No. 49.

5 Based on the above, Polk's *in forma pauperis* status should be revoked, because
6 the pending appeal is frivolous. *See Hooker v. American Airlines*, 302 F.3d 1091, 1092
7 (9th Cir. 2002) (district court may revoke *in forma pauperis* status if an appeal is found
8 to be frivolous). The appeal is frivolous because Polk already appealed the Court's
9 decisions that dismissed his claims and closed the matter. The Ninth Circuit affirmed the
10 Court's decisions. This matter should therefore be closed.

11 Further, Polk cannot assert any arguable basis to reinstate his claims or to
12 provide an avenue that allows for the continuous filing of motions in a closed matter.
13 *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989) (defining frivolous as an argument
14 that lacks any arguable basis in law or fact); *Walker v. O'Brien*, 216 F.3d 626, 631 (9th
15 Cir. 2000) ("[T]o determine that an appeal is in good faith, a court need only find that a
16 reasonable person could suppose that the appeal has some merit."). In view of this
17 finding, the Court shall certify that plaintiff's appeal is not brought in good faith within the
18 meaning of 28 U.S.C. §1915(a)(3).

19 IT IS HEREBY ORDERED that the Court certifies that plaintiff's appeal is not
20 taken in good faith within the meaning of 28 U.S.C. §1915(a)(3).

21 IT IS SO ORDERED.

22 DATED this 9th day of March, 2018.

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24 
25 LARRY R. HICKS
26 UNITED STATES DISTRICT JUDGE
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